

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re:

Guerry W. & Barbara A. Watson
Map 160-02-0, Parcel 41
Residential Property
Tax year 2005

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Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

The Metropolitan Board of Equalization (“county board”) has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$238,300	\$145,400	\$383,700	\$95,925

On August 25, 2005, the property owners filed an appeal with the State Board of Equalization (“State Board”).

The undersigned administrative judge conducted a hearing of this matter on May 18, 2006 in Nashville. In attendance at the hearing were the appellant Barbara A. Watson and Davidson County Property Assessor’s representative Jason Poling.

Findings of Fact and Conclusions of Law

The 5.94-acre parcel in question is located at 5305 Franklin Pike, in the Oak Hill area. Usage of part of this land is restricted by an easement in favor of the Tennessee Valley Authority (TVA), which has erected two large towers on the premises. A 3,368-square-foot, brick/frame house was built on this property in 1974. According to the appellant’s testimony, there have been no significant improvements to the home since then; but she has expended considerable sums on termite repairs as well as a new roof and HVAC system. Yet to be resolved, apparently, is a leak in the garage.

The Assessor originally revalued the subject property in tax year 2005 at \$478,300. Although that value was ultimately reduced by the county board to \$383,700, the appellant still considered the appraisal to be “way too high.” In tax year 2004, she recalled, this property was valued at \$357,200. Ms. Watson contrasted her relatively modest house with the “million-dollar” homes in this exclusive neighborhood.

In defense of the disputed appraisal, the Assessor’s representative introduced an analysis of three residential sales in Oak Hill that occurred during the 2003-04 period. Two of the selected comparables, he noted, were also affected by TVA easements. As interpreted by Mr. Poling, this market data actually supported a higher valuation of the subject property.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for

purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayer seeks to change the present valuation of the subject property, she has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Respectfully, after reviewing the entire record, the administrative judge finds insufficient grounds for reduction of the value determined by the county board. The Assessment Appeals Commission, appointed by the State Board under authority of Tenn. Code Ann. section 67-5-1502, has repeatedly proclaimed that the amount or percentage of increase in an appraisal of property for tax purposes is irrelevant to a determination of such property’s market value. For example, in the appeal of E. B. Kissell, Jr. (Shelby County, Tax Years 1991 & 1992, Final Decision and Order, June 29, 1993), the Commission ruled that:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over...a year.¹

Id. at p. 2.

To be sure, the subject property is adversely affected to some extent by the TVA obstructions. The evidence does not satisfactorily establish, however, that the present valuation fails to take that negative influence into account. Indeed, Mr. Poling’s sales comparison approach was largely unrefuted.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$238,300	\$145,400	\$383,700	\$95,925

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

¹It should be noted that the present valuation of the subject property only exceeds the 2004 appraisal by 7% -- hardly unprecedented in a desirable neighborhood.

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of June, 2006.

PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Guerry W. & Barbara A. Watson
Jo Ann North, Davidson County Assessor of Property

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